is also an obligation on the part of the Malaysian Government based on the order made by the Minister of Home Affairs to ensure that the hearing would go on April 7, 1983.

There are a number of matters which I should consider in granting or refusing bail in the exercise of my discretion. Some of these matters are:-

(1) The nature and gravity of the offence charged.

(2) The severity and degree of punishment which conviction might entail.

(3) The guarantee that the accused person if released on bail would not either abscond or obstruct the prosecution in any way.

(4) The danger of the witness being tampered with and whether the accused person if released on bail is likely to tamper with prosecution evidence.

(5) The opportunity of the accused to prepare the defence.

(6) The character, means and standing of the accused.

(7) The long period of detention of the accused and probability of further period of delay.

In fact, these matters do not appear to be exhaustive and there may be other points which a trial judge should consider depending on the circumstances of each case.

In my view, the main objection of the respondent that there cannot be any guarantee that the applicant would turn up at the Jalan Duta Court on April 7, 1983 based on his previous act in not returning to Australia since October 1973 and also the consideration of governmental intervention being involved do not outweigh the considerations for the applicant. Having given my consideration to the nature and gravity of the offence, the character, means and standing of the applicant, the guarantee given by his counsel that, if need be, he would surrender himself to the Australian Authorities to face the charges, and having weighed the other considerations for and against this application, it is my judgment that this application for bail be allowed, on the following conditions. Bail of $100,000/- with two sureties who are acceptable to the Sr. Asst. Registrar and the applicant shall surrender all his travelling documents including his international passport to the court.

Application allowed.

Solicitors: *Yusuf Gulam Lee & Co.*

C. SIVANATHAN v. ABDULLAH BIN DATO' HAJI ABDUL RAHMAN

[A.C.J. (Chan J.) June 22, 1983]
[Johore Bahru – Civil Appeal No. 12 of 1979]

Defamation – Slander Action for damages – Meaning of "slander which imputes a criminal offence" – Words spoken "dishonest, cheat, liar" – Whether actionable without proof of special damage – Whether imputing crime of "cheating".

The plaintiff, a member of the Tasek Utara Golf Club in Johore Bahru had an altercation with the defendant, the executive secretary of the said club, over the playing rights of the plaintiff's son who was a junior member of the club. The altercation ended with the defendant calling the plaintiff "dishonest, cheat, liar" in the presence of the plaintiff's son and another member of the club. The plaintiff sued the defendant in the Sessions Court for damages for slander. The President of the Sessions Court found in favour of the plaintiff and awarded him damages in the sum of $1,000.00. The defendant appealed to the High Court.

Held: the words "dishonest, cheat, liar" taken in the context in which they were said could not possibly impute any crime – let alone a crime punishable by imprisonment. The words were therefore not actionable without proof of special damage. Since the words were not capable of imputing the crime of cheating, and no special damage was proved, the plaintiff's action must fail. Moreover, the words were uttered in anger and understood in their context as not imputing a crime but as mere general abuse.

Per Curiam: the true legal position is that spoken words which impute a crime that is punishable corporally – that is to say: by imprisonment, whipping or hanging – are actionable without proof of special damage.

[*Editorial Note:* The plaintiff appealed to the Federal Court (Lee Hun Hoe, C.J. (Borneo) Hashim Yeop A. Sani and Syed Agil Barakbah F.JJ.) which held on September 27, 1983, "the Sessions Court President was wrong and the High Court judge was right." The plaintiff's appeal was accordingly dismissed with costs.]

Cases referred to:

(1) *Webb* v. *Beavan* (1883) 11 Q.B.D. 609.
(2) *Hellwig* v. *Mitchell* [1910] 1 K.B. 609, 612.
(3) *Michael* v. *Spiers & Pond Ltd.* (1909) 101 L.T. 352.
(4) *Ormiston* v. *Great Western Railway Co.* [1917] 1 K.B. 598.
(5) *Gray* v. *Jones* [1939] 1 All E.R. 798, 802.
(6) *D. & L. Caterers Ltd.* v. *D'Ajou* [1945] 1 K.B. 210, 213.
(7) *Australian Newspaper* v. *Bennett* [1894] A.C. 284.
(8) *Nevill* v. *Fine Art Co.* [1897] A.C. 68.
(9) *English and Scottish Co-op. Ltd.* v. *Odhams Press Ltd.* [1940] 1 K.B. 440, 452.

CIVIL APPEAL

Datuk P. Suppiah for the appellant.
Tan Hock Kim for the respondent.

Cur. Adv. Vult.

Chan J.: A slander is actionable *per se* if it contains an allegation or imputation of a crime which can be punished corporally: *Webb* v. *Beavan*[1] Pollock B. said at p. 610:

"... I think the passages in Comyns' Digest are conclusive to shew that words which impute any criminal offence are actionable per se. The distinction seems a natural one, that words imputing that the plaintiff has rendered himself liable to the mere infliction of a fine are not slanderous, but that it is slanderous to say that he has done something for which he can be made to suffer corporally."

In *Hellwig* v. *Mitchell*[2] Bray J. put it thus:

"In the absence of special damage slander is only actionable in certain cases, one of which is where the words impute the commission of a criminal offence punishable by imprisonment".

The judge went on to say at pp. 613 – 614:

"It was contended, however, that the rule does not require that the criminal offence should be one punishable by imprisonment, and that it is sufficient if the offence be one which renders the offender liable to summary arrest and detention. This is not a question of principle, but of judge-made law, and therefore I must look at the authorities to see how far they support this contention. The first case to which I will refer is *Webb* v. *Beavan* 11 Q.B.D. 609, in which the court had to consider the question whether it is necessary to allege that the words impute an indictable offence, and it was held that it was not necessary. Pollock B. in giving judgment said: 'The expression 'indictable offence' seems to have crept into the text-books, but I think the passages in *Comyns'* Digest are conclusive to shew that words which impute any criminal offence are actionable per se. The distinction seems a natural one, that words imputing that the plaintiff has rendered himself liable to the mere infliction of a fine are not slanderous, but that it is slanderous to say that he has done something for which he can be made to suffer corporally.' Those last words are, undoubtedly, somewhat ambiguous and may be wide enough to include an offence which, though not punishable by imprisonment, renders the offender liable to arrest. The judgment of Lopez J. in *Webb* v. *Beavan* does not carry the matter any further. The next case is *Michael* v. *Spiers & Pond, Ld.* 25 T.L.R. 740, where it was contended by counsel for the plaintiff that 'the joint effect of section 12 of the Licensing Act, 1872, and section 5 of the Summary Jurisdiction Act, 1879, was to make drunkenness on licensed premises an offence which exposed the person committing it to punishment corporally. The plaintiff under section 1 of the Licensing Act, 1902, was liable to be dealt with corporally on the spot, and therefore this was a slander which was actionable per se.' It appears, therefore, that the argument which has been raised here was also raised in *Michael* v. *Spiers & Pond, Ld.*, but A.T. Lawrence J. apparently did not find it necessary to decide the point, for he held that there was no imputation of an offence within section 1 of the Licensing Act, 1902, but he used these words: 'As, therefore, there is no imputation of an indictable offence or of an offence for which a person can be made to suffer corporally by way of punishment, I think special damage is necessary.' That is a dictum that the corporal suffering must be by way of punishment. I cannot find in the books a trace of authority for saying that words imputing that the plaintiff has done an act for which he may be arrested, but which is only punishable by a fine, are actionable without proof of special damage, or that a mere liability to arrest is sufficient to make the crime one for which the offender can be said to suffer corporally. Strictly speaking, it is incorrect to say that a person who commits a breach of the peace can be made to suffer corporally. The arrest in that case is not a punishment; it is merely a method of preventing the continuing of the offence."

Michael v. *Spiers & Pond Ltd.*[3] and *Hellwig* v. *Mitchell* were followed in *Ormiston* v. *Great Western Railway Co.*[4]. Rowlatt J. said at p. 601:

"The evidence ... is that a servant of the defendants said, in the hearing of bystanders, 'You have been travelling first class with a third-class ticket,' and took him by the arm back to the collector at the barrier. The offence of travelling first class with a third-class ticket, if with intent to avoid payment of the fare, is punishable by fine only, although, as a means of exacting the fine, there can be imprisonment in default. It is settled by *Michael* v. *Spiers & Pond* 101 L.T. 352 and *Hellwig* v. *Mitchell* [1910] 1 K.B. 609 that to accuse by spoken words a person of having committed that class of offence is not actionable slander without special damage."

In *Gray* v. *Jones*[5] Atkinson J. said:

"... the innuendo must be that the plaintiff has committed a crime for which she might be sent, or has been sent, to prison – a crime of such a nature that the law does punish by imprisonment – and it has been repeatedly held, and it is now beyond discussion, that, if words merely impute an offence for which the offender can only be fined, then the slander is not actionable without proof of special damage."

The cases which I have just referred to are cited by *Halsbury's* Laws of England, 4th ed. vol. 28, para. 54 in support of the following proposition –

"An action will lie without proof of special damage at the suit of a person of and concerning whom an oral imputation has been made and published that he has committed a crime punishable by imprisonment."

Gatley on Libel and Slander, 8th ed. para. 149 applies the same cases in support of the following assertion –

"Words which impute to the plaintiff the commission of a crime for which he can be made to suffer 'corporally' – i.e. physically – 'by way of punishment' are actionable without proof of special damage."

The following propositions of law seem to have emerged from these cases. If spoken words merely impute an offence for which the offender can only be fined, the slander is not actionable without proof of special damage: *Webb* v. *Beavan, supra, per* Pollock B. at p. 610; *Gray* v. *Jones, supra, per* Atkinson J. at p. 802. If the oral words impute an act for which a person may be arrested, but which is only punishable by a fine, the slander is also not actionable without proof of special damage: *Hellwig* v. *Mitchell, supra, per* Bray J. at p. 614. If the offence imputed is punishable by fine only, although as a means of exacting the fine there can be imprisonment in default, the slander is again not actionable without proof of special damage: *Ormiston* v. *Great Western Railway Co., supra, per* Rowlatt J. at p. 601.

A slander which imputes a criminal offence for which one can be made to suffer corporally is actionable without proof of special damage: *Webb* v. *Beavan, supra, per* Pollock B. at p. 610. Bray J. in *Hellwig* v. *Mitchell, supra,* (at p. 612) put this type of slander as words which impute the commission of a crime *punishable by imprisonment;* so did Atkinson J. in *Gray* v. *Jones, supra,* (p. 802) and so does *Halsbury's* Laws of England, fourth edition, vol. 28, para. 54. On the other hand, *Gatley* on Libel and Slander, eighth edition, para. 149 uses the words "made to suffer corporally *by way of punishment*". That expression came from a *dictum* of A.T. Lawrence J. in *Michael* v. *Spiers & Pond Ltd.* (at p. 353) where he used the words, "As, therefore, there is no imputation ... of an offence for which a person can be made to suffer corporally by way of punishment, I think special damage is necessary." This passage prompted Bray J. In *Hellwig* v. *Mitchell, supra,* (at p. 614) to say thus: "That is a dictum that the corporal suffering must be by way of punishment."

Imprisonment is a form of corporal punishment, so is whipping and so is hanging. But a mere liability to arrest is not corporal punishment. "The arrest in [such a] case is not punishment" said Bray J. in *Hellwig* v. *Mitchell, supra,* (at p. 614).

In *D. & L. Caterers Ltd.* v. *D'Ajou*[6] Stable J. used these words which show quite clearly the meaning of corporal punishment:

"It is true that, in the absence of actual damage, a slander, which imputes a criminal offence, must impute the commission of a criminal offence which can be punished corporally and it is true that a company cannot be punished corporally at all: it cannot be either flogged, sent to prison or hanged."

Nevertheless, the judge went on to decide that a limited company could sue, but the Court of Appeal [1945] 1 K.B. 364 expressly reserved the question. du Parcq L.J. said at p. 367: "It is not necessary to decide whether the judge was right in the view that 'a limited company' – I am reading his words – 'without proof of actual damage can sue for a defamatory spoken word imputing the commission of a criminal offence for which, if it were a natural person, it could be sentenced to a term of imprisonment.' I wish to say nothing one way or the other about that but to reserve my opinion on it.

The true legal position is, I apprehend, that spoken words which impute a crime that is punishable corporally – by imprisonment, whipping or hanging – are actionable without proof of special damage.

The following facts were taken from the judgment of the president in the court below. The plaintiff was at the material time, and, I think, still is a member of the Tasek Utara Golf Club. On the afternoon of August 17, 1978, his son, Muthanna, was waiting to tee off in a monthly golf competition at the club when the defendant approached him and asked him for his age. Muthanna told the defendant that he reached 18 on March 26, 1978. The defendant then told him that he was disqualified from the competition but that he could still play on payment of the green fee. Muthanna went on to play and after completing the first 9 holes telephoned his father about his disqualification from the competition.

The plaintiff then advised his son to complete the second 9 holes saying that he would fetch him at the clubhouse later in the evening. That evening, the plaintiff went to meet the son at the clubhouse. He brought with him a copy of the Club Rules. He did not know then that his copy of the Rules was an old one and that new rules have since come into force. The plaintiff explained to the son that rule 26 did not attach any age limit to the children of members who use the facilities of the club. The son then told the plaintiff that he was informed by the course steward that under the new Club Rules, rule 26 has put an age limit to children of members using the facilities of the club. At that moment, Mr. Tiong Ee Cheong joined the plaintiff and his son. They were at the patio of the clubhouse. A short while later, the defendant passed by the trio. The plaintiff enquired about his son's disqualification. The plaintiff wanted to know why he was not informed about it. The de-

fendant said that he was instructed by the secretary of the club to disqualify his son. The plaintiff then said to the defendant – "Is that all you are good for?"

In response to those words, the defendant said "Don't be personal" – I am reading now from the plaintiff's evidence – The plaintiff replied "I am not". The defendant then said "You are" and muttered something which the plaintiff could not make out except for the word "dishonest".

I turn now to the evidence of the son. This is what he said in evidence: "The defendant said that he was informed by the secretary, Mr. Moorthy, that I was to be disqualified. The defendant said that he was acting under instructions. My father then said 'Is that all you are good for?' The defendant then very quickly said 'Let's not get personal'. My father said 'I am not being personal.' The defendant then said 'Yes you are' and after a short pause he said 'dishonest'. My father asked 'What is dishonest?' The defendant shouted 'You are'. The defendant turned around and walked away and shouted 'dishonest, cheat, liar'."

I now refer to the evidence of Mr. Tiong, the third member of the trio. This is what he said:

"The plaintiff and I were seated while Encik Muthanna was standing.

The defendant was passing by. The plaintiff said to the defendant 'Mr. Siva, I want to have a word with you'.

I did not pay attention to the conversation. I was tired.

The conversation was about Muthanna being disqualified from the competition. [That] was the subject of the conversation.

The disqualification was [because] Muthanna was overaged. He had passed 18 and no more a family member.

The plaintiff told the defendant that the plaintiff was responsible for his son. If there was any infringement of the rules, he, the plaintiff should be informed.

The defendant said he acted on instruction[s] from the secretary.

Before the defendant walked away I heard the words 'dishonest' and 'cheat'. I think he uttered [them] once.

I heard the words but I did not pay attention to the meaning of it. Normally when people argue in the clubhouse many of [this] type of words are used.

There was an exchange of words between the plaintiff and the defendant. The defendant uttered the words 'dishonest' and 'cheat' as he walked away.

The defendant uttered the words in anger."

The court below was satisfied that the defendant used the words "dishonest", "cheat" and "liar". The plaintiff felt very hurt. This is what he said: "I was upset and shocked when I heard the word 'dishonest' – I have never been called dishonest in my life". The imputation is a most insulting one but the question is would those words impute a criminal offence punishable by imprisonment. I do not think so. The words have to be considered in the context in which they were spoken: "people not unfrequently use words, and are understood to use words, not in their natural sense, or as conveying the imputation which, in ordinary circumstances, and apart from their surroundings, they would convey, but extravagantly, and in a manner which would be understood by those who hear or read them as not conveying the grave imputation suggested by a mere consideration of the words themselves" – said Lord Herschell L.C. in *Australian Newspaper* v. *Bennett*[7] (at pp. 287 – 288) – "In [this] case" added the judge "it is impossible to consider the use of the word [Ananias] detached from all that accompanied it in the newspaper issued by the defendants. The language used must be looked at as a whole in considering whether the jury could reasonably come to the conclusion that the use of the word was not intended to convey, and that those reading the newspaper would not understand it as conveying, the serious imputation suggested"; or to use the language of Lord Halsbury L.C. in *Nevill* v. *Fine Art Co.*[8] (at p. 72) "it is necessary to take into consideration, not only the actual words used, but the context of the words, and the persons to whom the communications were made."

In *English and Scottish Co-op Ltd.* v. *Odhams Press Ltd.*[9] Slesser L.J. had said,

"one may take into consideration the fact, as was said in *Capital and Counties Bank* v. *Henty* (1882) 7 App. Cas. 741 by Lord Selborne (at p. 744), approving of what Wilde C.J. had said in *Sturt* v. *Blagg* (1847) 10 Q.B. 906, 908, [of] 'the manner and the occasion of the publication.'"

In my judgment the words "dishonest, cheat, liar" cannot, when fairly construed in the context in which they were used, be said to amount to a charge of cheating within section 415 and punishable under section 417 of the Penal Code. As was said by Slesser L.J. (at p. 453) "one is entitled to have regard to the mode and occasion of the publication."

Yet the President of the Sessions Court thought

that the words impute the crime of cheating. He said:

"They impute that the plaintiff was cheating the club by dishonestly continuing to pay the monthly subscription of $3 as a family member for his son instead of paying an entrance fee of $800, a refundable deposit of $50 and $25 monthly ordinary member subscription."

With respect, there is nothing in the rules of the club that requires the plaintiff as an ordinary member to pay the entrance fee, deposit or monthly subscription of another. The plaintiff is under no liability to pay. By the rules of the club, ordinary membership is not granted as of right. One has to apply for election to be a member and it is up to the committee to decide whether or not the privilege would be granted. Only the prospective member can apply. The plaintiff cannot apply for membership for his son.

In *Ormiston* v. *Great Western Railway Co., supra,* it was contended on behalf of the plaintiff – I am reading from the judgment of Rowlatt J. at p. 601:

"that as the offence of travelling without paying the railway fare with intent to defraud is punishable by imprisonment without the option of a fine upon a second conviction, – because the words 'You have been travelling first class with a third-class ticket' ought to be taken to mean that the plaintiff had been travelling first class with a third-class ticket after having been convicted of that offence – the words are actionable without proof of special damage. I can only say that the words are not capable of bearing that meaning, and the question whether they do in fact bear that meaning could not be left to a jury. It is not a possible contention."

Similarly, in the present case, it is not possible to contend, as the president did, that the words "dishonest, cheat, liar" ought to be taken to mean that the plaintiff has committed the crime of cheating the club of the entrance fee of $800 plus $50 deposit and $25 monthly subscription. As I have explained earlier, there is no liability on the plaintiff to pay these sums. I can only say (like Rowlatt J.) that the words are not capable of bearing that meaning. It is not a possible conclusion. It is not a possible offence. Just as the words "you have been travelling first class with a third-class ticket" cannot mean that the plaintiff in *Ormiston's case* has been convicted of the offence before. And just as the words "I cannot serve you; you are drunk" cannot, when fairly construed, mean being "drunk on licensed premises and appearing to be incapable of taking care of himself.": *Michael* v. *Spiers, supra,* at p. 353.

Rule 26 provides:

"Wives and children (below the age of 18) of Ordinary and Life Members shall be afforded all the privileges of such members and shall be subject to different rates of subscription if they wish to use the golfing facilities of the Club, but shall have no voice in the affairs or management of the Club except as provided for under Rule 44(d)."

This rule accords to wives and children of ordinary and life members the use of the facilities of the club. In the case of members' children, the facilities are open to them only when they are below the age of 18. Above 18, they do not enjoy those facilities. But a member has the right under rule 30 to introduce a person as a guest who will also be accorded the use of the facilities of the club "provided that any guest using the golf course shall pay such fees as may be prescribed from time to time by the committee". That is why the son was asked to pay the green fee so that he could be allowed to play golf on the course after he was told that he was overage. There are provisions limiting the number of times a guest may be introduced in one month and in a year. If a member infringed this rule then disciplinary action could be taken against him under rule 57 – the member could be expelled, suspended or fined – but no reasonable person would even think that a member could be in peril of a criminal prosecution for the offence of cheating the club just because he has broken the rules governing the introduction of guests to the club.

The words "dishonest, cheat, liar" taken in the context in which they were said could not possibly impute any crime – let alone a crime punishable by imprisonment. The words are, therefore, not actionable without proof of special damage. This is sufficient to dispose of the appeal. Since the words were not capable of imputing the crime of cheating, and no special damage was proved, the plaintiff's action must fail.

Moreover, words which *prima facie* impute a crime are not actionable without proof of special damage, if it is clear that they were not intended to impute a crime, but were spoken as merely general vituperation or abuse, and were so understood by the hearers: *Gatley* on Libel and Slander, 8th ed. para. 162.

"For mere general abuse spoken, no action lies – per Mansfield C.J. in *Thorley* v. *Lord Kerry* (1812) 4 Taunt. 355 at 365. The manner in which the words were pronounced, and various other circumstances might explain the meaning of the word[s]' – *Penfold* v. *Westcote*

(1806) 2 Bos. & P.N.R. 335, *per* Mansfield C.J. As was said by Lord Hodson in *Lewis* v. *Daily Telegraph* [1964] A.C. 234, 271 'the literal meaning of the words, even of such simple phrases as 'X is a thief', does not carry one very far, for they may have been spoken in play or other circumstances showing that they could not be taken by reasonable persons as imputing an accusation of theft."

In the instant case, I have already pointed out that it is not possible for the word "cheat" to impute the crime of cheating the club. The words "dishonest" and cheat" were understood by Mr. Tiong thus: "Normally when people argue in the clubhouse many of [this] type of words are used. There was an exchange of words between the plaintiff and the defendant. The defendant uttered the words 'dishonest' and 'cheat' as he walked away. The defendant uttered the words in anger." "To those who so understand them they do not convey any defamatory imputation": *Gatley* on Libel and Slander, 8th ed. para. 109. They were spoken as words of general abuse.

The appeal of the defendant against the judgment of the President in favour of the plaintiff was, therefore, allowed.

Appeal allowed.

Solicitors: *Suppiah & Singh; Tan & Tan.*

ATHAPPEN a/l ARUMUGAM v. MENTERI HAL EHWAL DALAM NEGERI, MALAYSIA & ORS.

[O.Cr. J. (Edgar Joseph Jr. J.) May 13 & 19, 1983, July 4, 1983]

[Penang – Criminal Application No. 1 of 1983]

Criminal Law & Procedure – Detention order – Application for habeas corpus – Whether order of detention of Minister open to judicial review – Emergency (Public Order and Prevention of Crime) Ordinance, 1969, s. 4(1).

Administrative law – Detention order – Application for habeas corpus – Whether order of detention of Minister open to judicial review – Emergency (Public Order and Prevention of Crime) Ordinance 1969, s. 4(1).

This was an application for *habeas corpus* to decide the following issue: "whether, and if so, to what extent the order of detention of the Minister for Home Affairs under the provision of section 4(1) of the Emergency (Public Order and Prevention of Crime) Ordinance, 1969, is open to judicial review".

The applicant was detained under an Order for Detention, "necessary for the purpose of preventing him from acting in any manner prejudicial to public order, or that it is necessary for the suppression of violence or the prevention of crimes involving violence". The applicant was alleged to be a member in an Indian Secret Society which was active in the York Road area, Penang. He was alleged to have committed criminal activities like criminal intimidation and damaged property in 1982 and 1983.

Held, dismissing the application: (1) the subjective satisfaction of the Minister to detain a subject is not open to judicial review;

(2) the vagueness etc. of the allegations of fact upon which a detention order is based does not relate back to the order of detention thereby vitiating it;

(3) the mere fact that a subject has been detained under the law as to preventive detention following his acquittal in a Criminal Court does not *ipso facto* render his detention wrongful;

(4) exceptionally, the courts will review the order for preventive detention if:

(a) *mala fides* is alleged; or,

(b) it is alleged that the grounds of detention stated in the order do not fall within the scope and ambit of the relevant legislation; or,

(c) it is alleged that a condition precedent for the making or the continuance of the order of preventive detention has not been complied.

Cases referred to:

(1) *Karam Singh* v. *Menteri Hal Ehwal Dalam Negeri* [1969] 2 M.L.J. 129.
(2) *Tan Boon Liat* v. *Menteri Hal Ehwal Dalam Negeri & Ors.* [1977] 2 M.L.J. 108.
(3) *Jacobs* v. *London County Council* [1950] A.C. 361.
(4) *The Mostyn* [1928] A.C. 57.
(5) *Dwarka Das* v. *State of Jammu & Kashmir* A.I.R. 1957 S.C. 164.
(6) *Jagannath Misra* v. *State of Orissa* A.I.R. 1966 S.C. 1140.
(7) *Ram Manohar* v. *State of Bihar* A.I.R. 1966 S.C. 740.
(8) *Yeap Hock Seng* v. *Minister of Home Affairs, Malaysia* [1975] 2 M.L.J. 279, 282.

CRIMINAL APPLICATION.

K. Balasundram for the applicant.

Zaki bin Tun Azmi (Deputy Public Prosecutor) for the respondents.

Cur. Adv. Vult.

Edgar Joseph Jr. J.: This application for *Habeas Corpus* raises the familiar question: Whether, and if so, to what extent the order of detention of the Minister for Home Affairs under the provisions of section 4(1) of the Emergency (Public Order and Prevention of Crime) Ordinance, 1969 ("the Ordinance"), is open to judicial review.